



# SHIRLEY N. WEBER, Ph.D.

CALIFORNIA SECRETARY OF STATE

April 7, 2022

County Clerk/Registrar of Voters (CC/ROV) Memorandum # 22061

TO: All County Clerks/Registrars of Voters

FROM: /s/ Rachelle Delucchi  
Elections Counsel

RE: Emergency Regulations: Conditional Voter Registration

The Secretary of State is proposing to adopt emergency regulations by amending the existing Conditional Voter Registration regulations. These regulations are being adopted pursuant to Senate Bill 504 (SB 504, Chapter 14 of the Statutes of 2022).

The proposed regulations provide a structure for county elections officials to allow qualified military and overseas voters and voters with disabilities to complete a conditional voter registration and cast a provisional ballot or nonprovisional ballot under the new provisions of the California Elections Code section 2170 (Amended by SB 504).

## Notice period:

This notice period will run from April 8, 2022, through April 14, 2022. At the end of the notice period, the Secretary of State will submit the required documents to the Office of Administrative Law for the adoption of these emergency regulations.

A copy of the notice and the proposed text of the regulations are attached to this memorandum and are available on the Secretary of State's website at <https://www.sos.ca.gov/administration/regulations/proposed-regulations>

The text of SB 504 can be found at:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB504](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB504)

If you have any questions, please feel free to contact Rachelle Delucchi at [rdelucch@sos.ca.gov](mailto:rdelucch@sos.ca.gov) or Raj Bathla at [rbathla@sos.ca.gov](mailto:rbathla@sos.ca.gov). Thank you.

**California Secretary of State  
Proposed Emergency Regulatory Action:  
Conditional Voter Registration**

**Finding of Emergency**

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. (1 California Code of Regulations, Section 48.)

**INFORMATIVE DIGEST AND STATEMENT OF EMERGENCY**

These emergency regulations avoid serious harm to the public peace, health, safety, and general welfare by providing the elections officials with sufficient time to implement new legislation and ensure that the June 7, 2022, Primary Election is held in a uniform manner by California’s 58 county elections officials, and that the election is held in a safe and accessible manner.

On March 31, 2022, Senate Bill 504 (SB 504, Chapter 14 of the Statutes of 2022) became law. Amongst other things, SB 504 authorizes the Secretary of State to adopt emergency regulations to implement SB 504. The Legislature further found and declared that that the emergency regulations are necessary for the immediate preservation of the public peace, health, safety, or general welfare because the regulations will ensure that elections officials have sufficient time to ensure that elections are held in a safe and accessible manner.

The proposed regulations provide a structure for county elections officials to allow qualified military and overseas voters and voters with disabilities to complete a conditional voter registration and cast a provisional ballot or nonprovisional ballot under the new provisions of California Elections Code section 2170 (Amended by SB 504).

**Section 20021. Definitions.** In subdivision (a), we are adding an acronym of “CVR” and adding a reference to the specific subdivision of the Elections Code section 2170. In subdivision (b), we are adding a reference to the specific subdivision of Elections Code section 2170. Further in subdivision (b), we are also adding the language to include military and overseas voters and how their voter registration would be processed.

These changes are necessary to make it clear that conditional voter registration is available to military and overseas voters and voters with disabilities. The changes describe that these categories of voters are allowed to vote utilizing counties’ remote accessible vote by mail systems, and further defines “CVR ballots” as those cast using a certified remote accessible vote

by mail system. In addition, we are also removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

### **Section 20022. Affidavit of Registration.**

The proposed amendments to this section remove the existing reference to online voter registration, and instead refers to the Secretary of State’s website. This change was necessary to provide clarity for where CVR voters may register. The term “online” is not necessarily specific, and this is a non-substantive change to existing regulations. In addition, we are also removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

### **Section 20023. Availability of Conditional Voter Registration; 14-Day Notice to Secretary**

In this section, we are adding clarifying language in subdivisions (a) and (b) of this section and

The proposed changes are necessary to align the current regulations with Section 2170 of the Elections Code as amended by SB 504. Specifically, the regulations now indicate that CVR is to be offered in person and through the internet website of the Secretary of State and that CVR ballots can be offered provisionally and non-provisionally. In addition, we are also removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

### **Section 20024. Conditional Voter Registration Provisional Ballot Return Envelope.**

In this section, we are adding language to clarify that this section is referring to ballot return envelopes provided by county elections officials. The proposed changes to this section are necessary because a ballot cast using a remote accessible vote by mail system (RAVBM) must be returned to the appropriate elections official in an envelope. A CVR voter at a polling location must put their ballot in a CVR envelope as well, but this section clarifies that the CVR envelope for an RAVBM voter must also look different from all other ballot return envelopes (such as a vote-by-mail return envelope). In addition, we are also removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

### **Section 20024.5. Conditional Voter Registration Ballot Cast Using a Remote Accessible Vote-by-Mail System.**

This is a new section added to provide instruction to elections officials to indicate in their local elections management system (EMS) that a CVR ballot must be reviewed prior to being processed. This section is necessary to ensure that proper procedures are followed when an elections official provides a CVR ballot to a voter using a certified remote accessible vote by mail system. These ballots require additional steps prior to being processed.

**Section 20025. Conditional Voter Registration Provisional Ballot Processing and Return Statuses.** – We are removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

**Section 20026. Conditional Voter Registration Provisional Ballot Reason Codes.** – We are adding a comma in subdivision (b). In addition, we are also removing repetitive sections from the Authority and Reference section. These are non-substantive changes.

**Section 20027. Voter Participation History.** We are removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

### Regulatory Compatibility

The Secretary of State has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Secretary of State has concluded that these are the only regulations that concern the conditional voter registration in the state of California.

### Local Mandate Determination

Mandate on local agencies or school districts: None

### Estimate of Cost Savings

Cost savings to any state agency: None

Reimbursable cost to any local government agencies: None

Nondiscretionary cost or savings to local government agencies: None

Cost or savings in federal funding to the state: None

### **NECESSITY STATEMENT**

These proposed regulations are necessary to ensure that voters, interested persons, and members of the public are fully aware of the process of a CVR voter using a remote accessible vote by mail system to register and cast a ballot. Further the regulations will ensure that elections officials have sufficient time to ensure that elections are held in a safe and accessible manner.

### **AUTHORITY AND REFERENCE**

Section 12172.5, Government Code; and Sections 10, and 2170, Elections Code. Reference: Section 2170, Elections Code.

### **DOCUMENTS RELIED UPON**

Senate Bill 504 (Chapter 14 of the Statutes of 2022)

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220SB504](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB504)

**California Secretary of State  
Proposed Emergency Regulatory Action:  
Conditional Voter Registration**

**Proposed Regulations Text**

California Code of Regulations  
Title 2. Administration  
Division 7. Secretary of State

The California Secretary of State (SOS) is proposing to make changes through emergency regulations to sections 20021, 20022, 20023, 20024, 20025, 20026, and 20027. In addition, the SOS is proposing to add section 20024.5 in Title 2. of Division 7. of the California Code of Regulations. Changes to the regulations are shown in strikethrough and underline, with eliminated text struck and new text underlined.

Chapter 1. Voter Registration  
Article 3.5 Conditional Voter Registration.

**20021. Definitions.**

(a) “Conditional voter registration” (“CVR”) has the same meaning as set forth in subdivision (a) of Elections Code section 2170~~(a)~~.

(b) A “CVR voter” is a person as described in subdivision (b) of Elections Code section 2170 and who, on Election Day or during the fourteen (14) days immediately preceding Election Day, does both of the following:

(1) Delivers an executed affidavit of registration to the county elections official in order to register to vote in California for the first time, or re-register to vote in the same or a different county in California, or as a military or overseas voter. The executed affidavit of registration can be submitted in either of the following ways:

(A) either in person at any permanent office of the county elections official, at any vote center or polling place, or at any satellite office designated by the county elections official, or

(B) online through the internet website Internet Web site of the Secretary of State. For purposes of this Article and subparagraph, if the voter requests to cast a ballot using a certified remote accessible vote by mail system, and

(i) the voter is registering as a military or overseas voter, their affidavit of registration submitted through the internet website of the Secretary of State must contain the signature of the voter and be otherwise complete, and the voter must provide an email address and indicate that they would prefer to receive their ballot by email or online on their application, or

(ii) the voter is a voter with disabilities, their affidavit of registration submitted through the internet website of the Secretary of State must contain the signature of the voter and be otherwise complete, and the voter must provide an email address on their application.

(2) Requests a CVR ballot in either of the following ways:

(A) in person at any permanent office of the county elections official, at any vote center or polling place, or at any satellite office designated by the county elections official, or  
(B) if the voter is a military or overseas voter or a voter with disabilities who is unable to meet the provisions of subparagraph (A), using a certified remote accessible vote by mail system. For purposes of this Article and subparagraph, the voter must contact their county elections official to carry out this request, and if the voter makes this request through email, the request shall be from the email the voter provided on their affidavit of registration submitted through the internet website of the Secretary of State.

~~As set forth in subdivision (f) of Elections Code section 2170, a county elections official may issue a nonprovisional ballot in place of a provisional ballot.~~

(c) If a provisional ballot is issued to a CVR voter, it is referred to as a “CVR provisional ballot.” If a nonprovisional ballot is issued to a CVR voter, it is referred to as a “CVR ballot.” A CVR provisional ballot or CVR ballot can be cast using a certified remote accessible vote by mail system.

(d) “Satellite office” has the same meaning as “satellite location,” as used in subdivision (b) of Elections Code section 3018.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, ~~2171, 2172, 2173, and 2196~~, Elections Code. Reference: Sections 300, 303.3, 2170, 2171, 2172, 2173, 3016.7, 3102, 3018, 4005, 4007, 14310, and 14311, Elections Code.*

## **§ 20022. Affidavit of Registration.**

To conditionally register to vote, CVR voters shall use the same affidavit of registration as other voters - either a paper form or ~~online~~ through the internet website ~~Internet Web~~ site of the Secretary of State.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10; and 2170, 2171, 2172, 2173 and 2196, Elections Code. Reference: Sections 2150, 2151, 2152, 2156, 2157, 2170, 2171 and 2196, Elections Code.*

## **§ 20023. Availability of Conditional Voter Registration; 14-Day Notice to Secretary of State.**

(a) County elections officials shall offer:

(1) CVR and CVR voting in person at any permanent office of the county elections official, at any vote center or polling place, or at any satellite office designated by the county elections official, or through the internet website of the Secretary of State and as is described in subdivisions (d) through (f) of Elections Code section 2170, and

(2) CVR provisional ballots or CVR ballots to CVR voters, in accordance with subdivisions (e) and (f) of Elections Code section 2170.

(b) If a satellite office has been designated by the county elections office,

(1) the county shall notify the Secretary of State no later than 14 days prior to voting and provide the location, operating hours, and contact information-, and

(2) ~~the~~ The Secretary of State shall post that information on the Secretary of State ~~Web site~~ website.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10, and 2170, ~~2171, 2172, 2173, 4005(a), 4007, and 14279~~ Elections Code. Reference: Sections 303.3, 2170, 2171, 2196, 3016.7, 4005(a), 4007, 14279, and 14310 Elections Code.*

#### **20024. Conditional Voter Registration Provisional Ballot Return Envelope.**

CVR provisional ballot return envelopes provided by county elections officials shall look visibly different from other all other ballot return envelopes. The visual difference can include, but is not limited to, different envelope color or a stamp or other marking mechanism used on CVR provisional ballot return envelopes.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10; and 2170, ~~2171, 2172, 2173~~. Elections Code. Reference: Sections 303.3, 2170, 2171, 3016.7, and 14310, Elections Code.*

#### **20024.5. Conditional Voter Registration Ballot Cast Using A Remote Accessible Vote-by-Mail System.**

A county elections official shall, prior to providing a CVR voter a ballot to be cast using a certified remote accessible vote by mail system, indicate in their county Elections Management System (EMS) and/or otherwise flag the CVR ballot to ensure the CVR ballot will be reviewed prior to being processed.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, Elections Code. Reference: Sections 303.3, 305.5, 2170, 2171, 3016.7, and 14310, Elections Code.*

#### **20025. Conditional Voter Registration Provisional Ballot Processing and Return Statuses.**

If a voter's conditional voter registration is deemed effective pursuant to Elections Code section 2170, the county elections official shall process a voter's CVR ballot as they process other nonprovisional ballots, and shall process a voter's CVR provisional ballot as provided in this section.

(a) To the extent feasible and when applicable, a county elections official shall verify that all other counties have applied polling place voter participation history before adjudicating their CVR provisional ballots.

(b) The county elections official shall immediately upon adjudication of the voter's CVR provisional ballot, enter into the statewide voter registration system a ballot return status and reason code.

(c) The ballot return status of a ballot shall be indicated as either:

1. Counted," or



2. “Not Counted.”

(d) If the voter is registering for the first time in California, the county elections official shall assign the CVR provisional ballot:

- (1) A ballot return status of “Counted” or “Not Counted,” and
- (2) An appropriate reason code in accordance with section 20026 if the ballot status is “Not Counted.”

(e) If the voter is re-registering in California, the county elections official shall:

- (1) Conduct research using the statewide voter registration system to determine if the CVR provisional ballot shall be “Counted” or “Not Counted.”
- (2) Assign the CVR provisional ballot a ballot return status of “Counted” or “Not Counted.”
- (3) Assign an appropriate reason code in accordance with section 20026 if the ballot return status is “Not Counted.”

(f) CVR provisional ballot information referred to in (d) and (e) above, indicating whether a CVR provisional ballot is counted or if it is not counted and the reason why it was not counted, shall be displayed on the Secretary of State’s “My Voter Status” page, along with the voter participation history.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, ~~2171~~, 2172, and 2173, Elections Code. Reference: Sections 2170, 2171, and 14310 Elections Code.*

**§ 20026. Conditional Voter Registration Provisional Ballot Reason Codes.**

(a) For all CVR provisional ballots where the ballot return status is “Not Counted,” an appropriate reason codes shall be assigned by the county elections official.

(b) If a CVR provisional ballot has not had a final adjudication, the county election official shall assign the ballot return status of “Not Counted” and either a temporary rejection reason code of “In review,” or one of the applicable rejection reason codes set forth in subdivision (c) below. Upon the final adjudication of the ballot, “In review” shall be replaced with either a ballot return status of “Counted” or with a rejection reason code for “Not Counted” as provided in subdivisions (c) and (d) below.

(c) A county elections official shall not count a CVR provisional ballot and shall assign the ballot a status of “Not Counted” with one of the reason codes listed below:

1. “Voter already voted.” This reason code shall be used when the voter has an accepted or counted ballot in California for that election, when the voter has previously
  - (A) voted at a location as provided in Elections Code section 338.5,
  - (B) returned a vote-by-mail (VBM) ballot in California that was accepted by a county elections official,
  - (C) returned a provisional ballot that has been processed and counted in the same or another county, or
  - (D) returned a CVR provisional ballot that has been processed and counted in the same or another county.
2. “No voter signature.” This reason code shall be used when the voter did not provide a signature on the CVR provisional ballot envelope.

3. “Non-matching signature.” This reason code shall be used when the voter provided a signature on the CVR provisional ballot envelope that did not compare to the signature on file with the county.
  4. “Ballot missing from envelope.” This reason code shall be used when the CVR provisional ballot envelope did not contain a ballot.
  5. “Voter not registered.” This reason code shall be used when the voter’s record is in a deficient status pursuant to Elections Code section 2150 et seq., which means the registration does not contain the facts necessary to determine eligibility to vote, including name, place of residence and date of birth.
  6. “Envelope was incomplete and/or illegible.” This reason code shall be used when the substantive information provided on the CVR provisional ballot envelope was missing or unclear.
  7. “No ID provided.” This reason code shall be used in a federal election when a first-time registrant, who is also a first-time voter, did not provide a California driver license or state identification number or the last four (4) digits of their social security number when they registered to vote, pursuant to Section 19075 of Article 2.5 of chapter 1 of Division 7 of Title 2 of California Code of Regulations, and they did not provide the information required by Section 20107 of article 7 of chapter 1 of Division 7 of Title 2 of California Code of Regulations, prior to the final adjudication of the ballot.
  8. “Please contact your county for further information.” This reason code shall be used when the county rejection reason is not “In review” or as provided in (c)(1-7) above.
- (d) The following additional reason codes apply to provisional ballots cast pursuant to Elections Code section 14310, but are not applicable to CVR provisional ballots:

1. “Voted in wrong county.”
2. “Voted wrong ballot.”

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, ~~2171~~, ~~2172~~, and ~~2173~~, Elections Code. Reference: Sections 2170, 2171, and 14310, Elections Code.*

## **§ 20027. Voter Participation History.**

- (a) The county elections official shall send voter participation history to the statewide voter registration system in near real time starting with the first day of voting for each voter that has participated in a specific election.
- (b) Voter participation history shall accurately indicate the method of participation, vote-by-mail, polling place, vote center, CVR, or Nonprovisional CVR.
- (c) Voter participation history shall be displayed on the Secretary of State’s “My Voter Status” page.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, ~~2171~~, ~~2172~~, and ~~2173~~, Elections Code. Reference: Sections 2170, 2171, 14310, and 15375, Elections Code.*